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Indigenous issues

The situation of human rights and fundamental freedoms of indigenous people

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly the report of Rodolfo Stavenhagen, Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, pursuant to paragraph 18 of Commission on Human Rights resolution 2005/51.

Summary

The present report, on activities carried out from August 2004 to August 2005, highlights some concerns which the Special Rapporteur deems to be worthy of special and urgent attention.

The activities carried out by the Special Rapporteur in fulfilment of the mandate entrusted to him by the Commission on Human Rights in 2001 have focused on (a) thematic investigation of issues that have an impact on the situation of human rights and fundamental freedoms of indigenous people; (b) country visits; and (c) communications with Governments with respect to alleged violations of indigenous people's human rights and fundamental freedoms throughout the world.

The report is divided into a number of sections which include references to the Special Rapporteur's mandate and his various activities, including country visits and coordination and cooperation with other international and regional mechanisms, a summary and analysis of communications sent during the period under review and an overview of the different human rights problems faced by indigenous people. In this report, the Special Rapporteur refers in particular to the relevance for indigenous people of the Millennium Development Goals, especially goal 1 (eradicate extreme poverty and hunger) and goal 2 (achieve universal primary education), and to some of the major challenges in terms of the protection of indigenous people, since .hese

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issues are considered key to the process of deciding on activities for the Second International Decade of the World's Indigenous People. The report also discusses conflict situations affecting indigenous communities in certain regions of the world.

During the period under review, the Special Rapporteur continued to receive information on situations where indigenous people's human rights and fundamental freedoms had been violated, including issues relating to extrajudicial executions; death threats against indigenous leaders; allegations of human rights violations in conflicts relating to land, access to natural resources or the environment; lack of access to basic social services; acts of discrimination; obstacles to the full enjoyment of the right to education, including issues relating to the use and protection of indigenous people's own languages and cultures; lack of information, participation and decision-making power with regard to issues that affect them; and forced evictions and displacements.

During the period under review, the Special Rapporteur undertook official visits to Colombia, Canada and South Africa, participated in the session of the African Commission on Human and Peoples' Rights, the fourth session of the Permanent Forum on Indigenous Issues and the twenty-third session of the Working Group on Indigenous Populations, and visited a number of communities in other areas at the invitation of various indigenous peoples, including the Sami people in Norway. He also took part in various international conferences and workshops, including a workshop on forced evictions and an international seminar on the implementation of laws regarding the rights of indigenous people, organized jointly by the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the Inter-Parliamentary Union (IPU) to support the Special Rapporteur in the preparation of his annual thematic report to the sixty-second session of the Commission on Human Rights.

Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people

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I. Introduction

1. This is the second report to be submitted to the General Assembly by Mr. Rodolfo Stavenhagen, Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people. During the period under review, the Special Rapporteur submitted his report to the Commission on Human Rights (E/CN.4/2005/88 and Add.1-4).

2. This report covers the activities carried out during the period 11 August 2004-10 August 2005. Like the Special Rapporteur's preceding report to the General Assembly (A/59/258), it underscores certain issues of concern which, in his view, require urgent and immediate attention.

3. In this report, particular reference is made, inter alia, to the relevance for indigenous people of Millennium Development Goal 1 (eradicate extreme poverty and hunger) and Goal 2 (achieve universal primary education) and to some of the major challenges in terms of the protection of indigenous people, since these issues are considered key to the process of deciding on activities for the Second International Decade of the World's Indigenous People. The report also discusses conflict situations affecting certain indigenous communities in the world. Owing to space constraints and in order to avoid needless duplication, reference will be made where necessary to previous reports on the issue where the questions raised are dealt with at length.

II. Mandate and activities

A. Functions and legal framework

4. The functions included in the mandate are described in resolutions 2001/57, 2002/65, 2003/56, 2004/62 and 2005/51 of the Commission on Human Rights and, in greater detail, in previous reports of the Special Rapporteur (E/CN.4/2002/97, paras. 2 and 3, and E/CN.4/2004/80, para. 2).

5. The international legal framework for the Special Rapporteur's work is also set out in the above-mentioned reports (E/CN.4/2002/97 and E/CN.4/2004/80/Add.1, paras. 79-101).

6. By its resolution 2005/51, the Commission on Human Rights, for the first time, requested the Special Rapporteur to begin preparing a study regarding best practices carried out to implement the recommendations contained in his general and country reports and to submit a progress report to the Commission at its sixty-second session.

B. Communications

7. Since his appointment, the Special Rapporteur has been receiving communications regularly on alleged violations of the human rights and fundamental freedoms of indigenous people. The increase in the quantity and quality of the information received reflects not only increased awareness of the Special Rapporteur's mandate among indigenous communities, but also broader knowledge of how the various special procedures work in general, as shown by the

increase in the number of communications sent both to this and to other special rapporteurs.

8. During his missions, the Special Rapporteur has observed that, although knowledge of the mechanisms is increasingly widespread among indigenous organizations, this knowledge also varies from one country to another. Thus, the lack of communications from certain countries should be attributed not to an absence of human rights violations, but to a lack of awareness of the international mechanisms available for the protection and promotion of human rights in general.

9. Since the Special Rapporteur submitted his first report to the Commission on Human Rights, there has been an increase in the number of replies from Governments to his urgent appeals and communications. However, he is concerned at the lack of replies from some Governments to the communications transmitted, and will continue to follow up these communications. He thanks those Governments which have replied fully and expeditiously to his communications.

10. The situations that have led to the intervention of the Special Rapporteur between the time of submission of his report to the fifty-ninth session of the General Assembly and December 2004 are described at length in his report to the Commission on Human Rights (E/CN.4/2005/88/Add.1). This report contains a summary analysis of the main human rights problems affecting indigenous people, in addition to other information and references to cases that led to the intervention of the Special Rapporteur during the period under review.

C. Visits

11. A key component of the Special Rapporteur's mandate is the conduct of country visits for the purpose of informing the Commission on Human Rights about the situation of indigenous people and opening a constructive dialogue with Governments, indigenous communities and other relevant organizations. Country visits are an excellent means of facilitating the in situ analysis and understanding of the situation of indigenous people in their different circumstances and are also an important tool for raising awareness of these issues in the international community. In this context, efforts within the United Nations system should be stepped up to ensure that the hopes raised by these visits generate new and durable solutions to the problems faced by indigenous people in the countries visited.

12. With regard to observation missions, the Special Rapporteur submitted to the Commission on Human Rights the results of his visits to Colombia (E/CN.4/2005/88/Add.2) and Canada (E/CN.4/2005/88/Add.3). Below is a brief summary of the main conclusions and recommendations stemming from these visits. The Special Rapporteur undertook a mission to South Africa in August 2005 and will report thereon to the Commission on Human Rights at its sixty-second session.

13. During his visit to Colombia, the Special Rapporteur noted that even though the country has made more progress than its counterparts in the region in terms of recognizing the rights of indigenous people, it still faces enormous challenges with regard to the effective protection and promotion of indigenous people's human rights and fundamental freedoms. The fact that existing provisions on indigenous issues are not being effectively implemented has undermined the country's constitutional achievements. With regard to communities' basic service needs, the

Government has assured the Special Rapporteur of its determination to deal effectively with the social and economic problems faced by more than 700,000 indigenous people in Colombia. The visit revealed, inter alia, the devastating effects of the internal armed conflict on indigenous communities: murder and torture, mass displacement, forced disappearance, forced recruitment of young people into combat units and rape of women, as well as occupation of indigenous people's lands by guerrilla, paramilitary and other illegal armed groups. There were also reports of the militarization of some indigenous communities.

14. The Special Rapporteur continues to be concerned at the situation of some very small communities in the Amazon region that are now on the verge of extinction as a result of the murder of their leaders, massacres, threats and the forced dispersal of their members. For that reason, since his visit the Special Rapporteur has been liaising with the diplomatic representatives of Colombia in Geneva, the Secretary-General's Special Adviser on the Prevention of Genocide and other relevant bodies and special procedures on human rights, as requested in paragraph 10 of Commission on Human Rights resolution 2005/51, for the purpose of exchanging information on this matter. It has been suggested that a mission should be conducted to investigate the allegations received, with a view to preventing irreversible damage from the instances of violence reported by the communities affected and by human rights organizations. The Special Rapporteur has also expressed concern about other urgent issues, including the forced internal displacement of many indigenous people, the exploitation of the natural resources on their lands, the spraying of their lands as part of the campaign against illicit crops and the need to consult them before taking decisions on matters that affect them, notably in the area of economic development.

15. During his visit to Canada, the Special Rapporteur noted the persistent disparities between aboriginal Canadians and the rest of the population with regard to the progress achieved in areas such as access to basic social services, and collected information about disputes between the various levels of government and aboriginal people concerning rights to land and natural resources. Poverty, infant mortality, unemployment, morbidity, suicide, criminal detention, abuse of women and child prostitution are issues of particular concern to the communities. The data collected during the visit showed that, despite efforts to remedy the situation, educational attainment, health standards, housing conditions, family income and access to economic opportunity and to social services are much worse among aboriginal people than among other Canadians.

16. Canada's commitment to ensuring that the country's prosperity is shared by aboriginal people is encouraging. The Government is devoting a large number of programmes and projects, together with considerable financial resources, to achieving this goal. Ever since colonial times, Canada's indigenous peoples have been progressively dispossessed of their lands, resources and culture, a process that has led them into destitution, deprivation and dependency. Current negotiated land claims agreements between Canada and aboriginal peoples are intended to provide certainty and predictability, but require aboriginal people to waive certain rights in exchange for specific compensation packages, a situation that has led in several instances to legal controversy and occasional confrontation. In his report on Canada, the Special Rapporteur makes a number of recommendations intended to help the parties to bridge the existing gaps in areas such as access to basic social services

and to consolidate what aboriginal peoples have achieved so far on issues concerning access to land and natural resources.

17. The Special Rapporteur visited South Africa from 28 July to 8 August 2005 with a view to expanding his knowledge of the situation of indigenous people in the country and learning about the Government's policies to promote and protect the rights of indigenous communities in South Africa. Although all indigenous people in South Africa were brutally oppressed under the colonial system and the apartheid regime up to 1994, it was the Khoi-San in particular, considered the descendants of the earliest inhabitants of the country, who were dispossessed of their lands and territories and whose communities and cultures were destroyed. Bearing in mind that the democratic Government of South Africa is striving to compensate for the great injustices inherited from the old regime and that the tragic consequences of apartheid cannot be corrected overnight, the Special Rapporteur, in his conversations with authorities and communities, obtained extensive information about the challenges these communities face, including their long-standing demands for land and access to its resources, constitutional recognition, respect for their different cultural identities and full access to basic social services such as education, health care, housing and water. All the documentation collected during the mission will be carefully analysed and evaluated and will be included in the report to be submitted to the Commission on Human Rights at its sixty-second session.

18. Finally, the Special Rapporteur wishes to inform the General Assembly that he has received copious documentation from the Governments and indigenous communities of the countries he has visited about the efforts under way to put his recommendations into practice. In Mexico and Guatemala, work has begun on the implementation of a specific project designed in consultation with communities and promoted by OHCHR and the Governments of both countries, with substantial financial support from the European Union.

III. Cooperation and coordination with other international and regional mechanisms

19. Since his appointment, the Special Rapporteur has maintained contact and discussed means of collaboration with the Permanent Forum on Indigenous Issues and the Working Group on Indigenous Populations, and has closely followed the deliberations of the working group on a draft United Nations declaration on the rights of indigenous peoples.

20. While taking part in the fourth session of the Permanent Forum on Indigenous Issues, the Special Rapporteur held an interactive dialogue with the members of the Permanent Forum and the participants in general to examine, inter alia, means of following up the implementation of the recommendations included in his various reports. Mention was also made of the need to increase knowledge of and interest in issues of concern to indigenous people among United Nations country teams. In that context, the experience of the Permanent Forum members and their annual recommendations could be an effective tool.

21. The Working Group on Indigenous Populations, at its twenty-third session, explored ways of strengthening cooperation with regard to indigenous people's human rights and fundamental freedoms between the Working Group, the Permanent

Forum on Indigenous Issues and the Special Rapporteur. A number of indigenous representatives mentioned the importance of putting the Special Rapporteur's recommendations into practice after his country visits and called for increased efforts to follow up those visits. Government representatives of the countries visited to date informed the Working Group of recent action taken in their respective countries to follow up the Special Rapporteur's recommendations.

22. During the dialogue, attention was drawn to the specific features of each mechanism's mandate. Given the situation faced by millions of indigenous people around the world, all three mandates continue to be highly relevant. Taking into account the special nature of each mandate, participants highlighted the importance of enhancing the search for synergies so as to consolidate efforts to advance the indigenous affairs agenda in all fields, including the defence and protection of human rights. It was also agreed that each of the three mechanisms played an important and irreplaceable role in the United Nations system.

23. One of the areas in which joint efforts are needed is the organization of the information submitted at the annual sessions both of the Working Group and of the Permanent Forum. During these sessions, a great deal of information is received on specific cases of alleged human rights violations; however, the action that may be taken is limited under these mechanisms' mandates. There is therefore a need to find appropriate ways of systematically bringing this information to the attention of the Special Rapporteur, whose mandate allows him to take action in such cases. The challenge is to obtain the resources needed to process and verify the information so as to provide the Special Rapporteur with all the necessary details to enable him to decide, in his capacity as an independent expert, what action may be taken. In addition, since his appointment in 2001 and during his missions to various countries, the Special Rapporteur has observed the efforts under way to develop coordinated action involving all the agencies and programmes of the United Nations system. In his discussions with United Nations country teams, he has noted the need to intensify efforts with regard to indigenous issues and, in particular, the need to consider these issues from a human rights perspective, with a view to achieving durable solutions to current challenges. This is an area in which the Working Group, the Special Rapporteur and OHCHR could combine their efforts to develop proposals on guiding principles for the formulation and implementation of projects and programmes aimed at improving the human rights conditions and, consequently, the living conditions of indigenous people.

24. The Special Rapporteur has also specifically followed up developments in the promotion and protection of indigenous people's human rights at the regional level. For example, in April 2005 he attended the thirty-seventh session of the African Commission on Human and Peoples' Rights at the invitation of its Chairman. At that session, he made a presentation to the plenary, held bilateral meetings with the Working Group of Experts on Indigenous Populations/Communities and had the opportunity to hold wide-ranging discussions with indigenous representatives from various African countries on the challenges their respective communities face.

25. The Special Rapporteur recognizes the commitment shown by the African Commission on Human and Peoples' Rights to study in depth the situation of indigenous people in Africa and to seek constructive ways of addressing their demands with durable solutions. The establishment of the Commission's Working Group of Experts on Indigenous Populations/Communities to examine the main

challenges faced by indigenous people and communities in Africa not only represents a milestone in the promotion and protection of the human rights of indigenous people in the region, but also promises to help advance the debate on the challenges faced by millions of indigenous people throughout the world with regard to human rights.

26. The conceptualization and analysis of the situation carried out by the African Commission on Human and Peoples' Rights, as set out in the report of the Working Group of Experts on Indigenous Populations/Communities (E/CN.4/Sub.2/AC.5/2005/WP.3), is a key contribution to the recognition of indigenous people in Africa and of the grave human rights violations which they suffer. One of the challenges in Africa is to define the term "indigenous"; in this context, the Working Group identified important elements for clarifying the term. To this end, it is necessary to pay more attention than ever to the specific historical characteristics of the continent arising from its particular historical, political and social context. Another issue of concern to the Special Rapporteur and the members of the Working Group is the security of indigenous people in Africa, especially the worrying situation of some communities that are particularly vulnerable as a result of conflict situations.

27. The Special Rapporteur is aware of African Governments' concern about the situation of these people, who are not involved in the conflicts but are often their most vulnerable victims. This is an issue that requires the urgent attention of the international community and of the region's Governments. The members of the Working Group and the Special Rapporteur identified areas of common interest and possible ways of addressing indigenous groups' urgent need for protection, and agreed to exchange information on a regular basis for the purpose of establishing an early-warning mechanism with regard to indigenous people and conflicts that could affect them in Africa. Another way in which both mechanisms could strengthen their capabilities would be to ensure that the follow-up to the Special Rapporteur's visits to the countries of the region is as effective as possible.

28. The Special Rapporteur also took part in various international conferences and workshops, including a workshop on forced evictions, held in Berlin in June by the Ministry of Foreign Affairs of Germany in cooperation with the German Institute for Human Rights and the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living and on the right to non-discrimination in this context. He also took part in an international seminar on the implementation of laws regarding the rights of indigenous people, held in Geneva in July by OHCHR and IPU to support the Special Rapporteur in the preparation of his annual thematic report to the sixty-second session of the Commission on Human Rights. This seminar, in which deputies from a number of parliaments in all regions of the world took part, also served to emphasize the need to collaborate with national legislatures to strengthen mechanisms for monitoring and following up the implementation of laws regarding the human rights of indigenous people, as well as the need to take existing international standards into account in formulating new standards in this area.

IV. Status report: major human rights problems affecting indigenous peoples

29. Generally speaking, the human rights situation of indigenous peoples is far from satisfactory. Despite the progress made in some countries, in most regions of the world indigenous people continue to face powerful obstacles hindering the full and effective enjoyment of their rights and to endure grave violations of their fundamental rights.

30. From the information he assembled, the Special Rapporteur identified trends affecting indigenous peoples in various regions of the world. Following is a brief discussion of these patterns in the period under consideration.

31. Since indigenous peoples historically identify with "Mother Earth" and base their cultural identity primarily on their long association with the earth and its fruits, when this relationship is disrupted or eroded, situations arise that impair their human rights. The Special Rapporteur has received and continues to receive numerous complaints alleging human rights violations related to conflicts over the tenure and collective ownership of land, access to natural resources such as water and forests and serious environmental problems such as pollution, deforestation, desertification and toxic waste, which adversely affect the lives of individuals and communities.

32. Indigenous peoples show high degrees of marginalization and low indicators of social, economic and human development (according to definitions and criteria set by multilateral bodies). The complaints received often describe serious deficiencies in access to and provision of basic social services. Acts of discrimination are also mentioned, particularly but not solely in the administration of justice. Especially disturbing are reports, from some countries, of murders and extrajudicial executions, death threats against community authorities and the persecution of indigenous representatives and leaders under new counter-terrorism measures. There are numerous obstacles to the full enjoyment of the right to education, including issues related to the use and protection of indigenous languages and cultures.

33. The Special Rapporteur is troubled by frequent complaints about evictions and forced displacements of indigenous communities, despite international legal provisions such as International Labour Organization (ILO) Convention No. 169 concerning indigenous and tribal peoples in independent countries, which clearly establish the rights of indigenous peoples in such circumstances. The Special Rapporteur has received eviction complaints from Botswana, Kenya, the Philippines, India and Guatemala, among other countries. He has also received many complaints alleging that indigenous people lack information, opportunities for participation and decision-making power with regard to issues that affect them.

34. The allegations, which come from various parts of the world, demonstrate that indigenous people are vulnerable to various forms of discrimination based on their ethnicity. Moreover, many reports refer to the persecution of leaders and representatives of indigenous social movements whose activities affect various kinds of vested interests. The Special Rapporteur has received a large number of communications, and has gathered information during country visits, attesting to the difficult situation of indigenous women, who face daily insults and humiliations for wearing traditional costumes (among other reasons) and of indigenous human-rights

defenders, who are harassed and persecuted in many countries. These situations continue to be of particular concern.

35. Defending the human rights of indigenous people in situations characterized by severe political and social conflict (but not necessarily armed conflict) sometimes leads to showdowns between indigenous social organizations, private security companies that operate in many rural areas to protect the interests of big landowners and State security forces. As the Special Rapporteur pointed out in his report to the Commission on Human Rights, such social conflicts are often ultimately referred to the criminal justice system instead of being addressed through constructive negotiation on social policy.

36. The Special Rapporteur is troubled that Governments increasingly apply new or old counter-terrorism laws to leaders of these social movements, thereby criminalizing legitimate activities for the defence of indigenous people's human rights. On 20 July 2005, he expressed his concern to the Government of Chile and issued a public communiqué about the trial of a group of Mapuche leaders in the city of Temuco, who were accused of forming an illegal terrorist association in connection with a social conflict over land. Fortunately, in July 2005 the Chilean courts handed down a favourable decision acquitting the indigenous leaders.

37. The situation of indigenous children continues to be harrowing in many countries. Of particular concern are cases of forced recruitment of indigenous children and youths by armed groups, and in some cases by organized crime. The continuing practice of child labour by indigenous children, especially girls, as a response to poverty is a matter of considerable gravity. According to the United Nations Children's Fund (UNICEF), in Latin America and the Caribbean most such children work in mines, fields and factories, as well as in domestic service. This also occurs in Asia and Africa. In many rural indigenous communities, the use of child labour in agricultural work and related activities is essential for families' survival. This pattern of behaviour seriously hinders school attendance and explains, in part, the low educational achievement indices of indigenous children and youths in various regions.

38. Although child labour in indigenous communities is primarily the result of poverty, it is a multidimensional problem in which factors such as discrimination, migration, crime, lack of educational programmes and inadequate social protection also come into play. Especially vulnerable are indigenous and tribal girls and adolescents, who are often forced into human trafficking networks, prostitution rings or other forms of sexual exploitation at an early age. Although many countries have signed and ratified numerous conventions and agreements prohibiting child labour, the failure to implement these instruments at the national and local levels suggests that this scourge is not being addressed effectively.

A. Poverty and the enjoyment of human rights

39. Poverty traps indigenous people in a permanent cycle of exclusion, and is therefore one of the most serious violations of their human rights. While strengthening their efforts to achieve the Millennium Development Goals, Governments and national and international agencies should pay particular attention to pockets of hard-core poverty such as those found among indigenous and tribal populations, who are still the most excluded social and ethnic groups in many

societies. The Special Rapporteur wishes to draw the attention of the General Assembly to the importance of Goals 1 and 2 for indigenous people's enjoyment of their human rights and to some of the major challenges in terms of the protection of indigenous people, since these issues are considered key to the process of deciding on activities for the Second International Decade of the World's Indigenous People.

40. The available information indicates that rates of poverty and extreme poverty are higher among indigenous peoples than in the rest of the population, both in communities of origin and in urban areas. Indigenous people's poverty indices are generally higher than the national average, and, with some exceptions, poverty is more extreme among these people. This trend was confirmed by the Special Rapporteur during his visits to indigenous communities in various parts of the world and by specialized studies on this subject published in recent years.

41. Indigenous populations suffer not only from income poverty, measured in terms of low monetary income per capita, but also from food poverty, skills poverty and asset poverty, which are reflected by many other indicators, such as the inability to meet basic needs, insufficient access to social and public services, inadequate infrastructure and limited access to productive resources such as land, water, forests and other forms of natural wealth.

42. This complex panorama of persistent poverty is rooted in the conditions of destitution, discrimination and structural inequality to which indigenous peoples have historically been subject. Such multidimensional poverty cannot be overcome through a piecemeal approach; rather, it requires comprehensive public policies, which most States and multinational agencies unfortunately have not yet developed for indigenous peoples.

43. The persistence of poverty and extreme poverty among indigenous people reflects a history of denial of their human rights. Therefore, any national or international policy for the effective eradication of poverty must be based on recognition of and respect for human rights. This task is urgent for the attainment of the Millennium Declaration Goals, and should directly target the specific multidimensional conditions of hard-core poverty in indigenous communities.

44. Many of the complaints that the Special Rapporteur has received from indigenous communities and organizations (and which he has often been able to verify on field visits) deal with the need for access to such basic services as clean drinking water, electricity, decent housing, timely health care, schools, a healthy environment and adequate nutrition; in other words, all the facets of human security and human development, which a large proportion of the world's indigenous people do not enjoy.

45. The statistical information provided by national and international agencies that study poverty and inequality often fails to reflect the specific situation of indigenous peoples, with the result that the authorities are unaware of their unmet needs and their low or extremely low standards of living. When the data are correctly disaggregated a devastating panorama emerges: indicators for indigenous people are invariably below the national average and their living conditions have a strong impact on the social and economic inequality curve. The Special Rapporteur calls on the competent agencies to provide information on indigenous people's living conditions and levels of poverty and inequality so that Governments and national

and international public and private entities can develop appropriate economic, social and welfare policies for the benefit of these groups.

46. In recent years Governments have pledged to take measures within the context of strategies and programmes designed to reduce poverty and eliminate extreme poverty. In order to be consistent and genuinely effective, such strategies must take into consideration the human rights dimension of poverty and its solutions. Accordingly, at the request of the Committee on Economic, Social and Cultural Rights, OHCHR initiated the task of developing substantive guidelines for the integration of human rights in poverty reduction strategies.

47. At the time of writing of the present report, this task had not been completed. However, the Special Rapporteur reports that all of the 18 guidelines contained in the first draft are related to issues of crucial importance to the protection and promotion of indigenous people's human rights. The Special Rapporteur calls upon all relevant stakeholders to support this process, with a view to promptly finalizing the guidelines and putting them to effective use.

B. Access to education

48. For indigenous peoples, the full enjoyment of all human rights requires, first and foremost, the full attainment of their right to education, which is essential if such peoples are to emerge from the exclusion and discrimination they have historically endured, and therefore also from poverty. The Special Rapporteur's main report to the Commission on Human Rights at its sixty-first session focused on this topic. Moreover, to support his research on that problem, OHCHR and the United Nations Educational, Scientific and Cultural Organization (UNESCO) held an expert seminar in Paris in October 2004, whose recommendations were submitted to the Commission by the Special Rapporteur (E/CN.4/2005/88/Add.4).

49. The information and testimony assembled by the Special Rapporteur reveal that in many countries there are obstacles to full access to education for indigenous children, particularly girls, and that such services are often of poorer quality than those provided to the non-indigenous population.

50. After many decades in which the predominant educational model was one that encouraged the assimilation of indigenous people, there is now a growing tendency to develop education policies based on respect for cultural diversity and the promotion of bilingual and intercultural education. However, the institutional, pedagogical, cultural and linguistic problems that this new approach entails have not been fully resolved.

51. The information assembled by the Special Rapporteur also reveals that the goal of enabling all indigenous children to attend and complete primary school is unfortunately far from universal fulfilment. The supply of educational services for indigenous children is generally below the recommended minimum. Of particular concern are the difficulties that indigenous girls face in school, which are due largely to ethnic and gender discrimination. The situation is often exacerbated by gender discrimination within their own communities.

52. The educational needs of indigenous communities are generally given low priority in Governments' education plans, meaning that these communities receive fewer material and institutional resources per student than does the non-indigenous

urban population. This has various results: a lack of school facilities or, if they do exist, inferior physical conditions; a shortage of teachers and insufficient teacher training; a lack of suitable teaching materials; curricula that are not adapted to the cultural realities of those communities; unmet linguistic needs; and so on. These and other problems result in high dropout rates among indigenous children, especially girls, and a progressive decrease in the number of indigenous students in secondary and higher education. Thus, indigenous young people do not have sufficient skills to compete with their non-indigenous peers in the job market and are often inadequately prepared to face the economic and social development challenges of their own communities. The Special Rapporteur recommends that action to address this problem be a cornerstone of the programmes launched within the context of the Second International Decade of the World's Indigenous People.

53. The Special Rapporteur urges that culturally appropriate indigenous education be given the priority it deserves, both nationally, in public programmes and budgets, and internationally, by international agencies responsible for promoting development and reducing poverty, such as the World Bank and the United Nations Development Programme (UNDP).

54. Indigenous education must urgently be improved in both quantity and quality. Indigenous people require not merely education, but education which is suited to their specific cultural and social characteristics. The participation of indigenous communities in designing, implementing and evaluating educational programmes and projects is essential. If poverty reduction policies are to have a long-term impact, progress in primary education is not sufficient; efforts must also be augmented in the areas of secondary and higher education.

55. Such an approach can greatly help to ensure that new generations of indigenous children and youth are not excluded from the benefits of economic, social and human development to which they are entitled and to which they would have access were they not actively or passively denied the full enjoyment of all their human rights.

56. Confronted with poverty and with educational services which fail to ensure their full right to education, indigenous people have not been mere observers; they have used their creativity, imagination and skills to overcome these obstacles and promote social and cultural development in their communities. Many of these efforts have had interesting results, which should be carefully assessed. In working towards attaining the Millennium Development Goals, it is crucial to draw on the experience of indigenous peoples, who have generally been excluded from decision-making processes concerning education policy.

C. Armed conflicts, human rights and indigenous peoples

57. In all countries where armed conflicts are occurring or have occurred on indigenous territories (Bangladesh, the Philippines, Nepal, Colombia, Guatemala, Rwanda and the Democratic Republic of the Congo, to cite only the most familiar cases), indigenous populations suffer from injustices related to repeated violations of their civil, political, economic, social and cultural rights and to a constant failure to observe the laws and customs of war applicable to internal armed conflicts, or international humanitarian law. Information received by the Special Rapporteur suggests that the perpetrators of such violations include both non-State actors and

members of State security bodies. These internal armed conflicts also threaten the coexistence of diverse ethnic and cultural groups in the countries in which they occur.

58. Since the early 1980s, these concerns have been brought to the attention of the United Nations by indigenous representatives and non-governmental organizations, and they are reflected in many official documents of the United Nations and of its mechanisms for the promotion and protection of human rights. Indigenous peoples are among the most vulnerable victims of conflicts and violence in Africa, Asia and Latin America, and this has added a burden of destruction and death to their already difficult struggles. Their lands and resources have been stolen, their cultures ravaged and their human rights denied.

59. The infringement of indigenous populations' human rights within the context of internal conflicts deserves the special attention of the General Assembly, since it threatens the survival of these peoples and endangers the lives not only of individuals but also of their communities, as well as the ethnic and cultural diversity of the countries concerned.

60. Many of today's armed conflicts are taking place on indigenous territories. Most conflicts on lands inhabited by indigenous peoples are related to the control of natural resources such as wood, minerals or oil or of areas considered "strategic" by either or both parties to the conflict. Such conflicts are often unacknowledged by the countries in which they are occurring and by the international community. Many have persisted for long periods of time and have become self-perpetuating.

61. As a result of such conflicts, indigenous peoples endure grave violations of their human rights, including threats, forced disappearances, the targeted assassination of their leaders, torture, massacres, forced recruitment for combat, forced displacement, the exile of entire communities, loss of internal autonomy and social control and lack of access to places where they can engage in traditional activities such as hunting and fishing, subsistence agriculture and trade. Territories in conflict are usually sown with anti-personnel mines.

62. Indigenous women and children suffer even more from these daily tragedies because of their gender or their status as children. Indigenous women endure constant discrimination, exclusion and exploitation. The warring parties habitually use the rape of women as a weapon of war, so as to humiliate and terrorize the population.

63. The United Nations has made encouraging progress on the protection of children affected by armed conflict, but the lack of progress at the national level is disturbing. The Special Rapporteur welcomes the adoption of Security Council resolution 1612 (2005) of 26 July 2005, concerning the establishment of a monitoring and reporting mechanism on the recruitment and use of child soldiers and on other abuses committed against children affected by armed conflict, especially since this issue is of particular importance for many indigenous communities.

64. This monitoring mechanism must be adapted to the specific situation of indigenous children in this unfortunate situation. In view of the testimony he gathered during his tour of several of Colombia's departments, the Special Rapporteur wishes to reiterate his warning about the serious impact of the internal armed conflict on indigenous communities, and especially on indigenous children.

The Special Rapporteur trusts that the report on his visit to Colombia will help to guide the operation of the new monitoring mechanism, and expresses his willingness to carry out an in-depth study of this phenomenon and its impact on indigenous communities.

V. Conclusions and recommendations

65. The Special Rapporteur would like to add the following comments to the final observations and recommendations contained in his reports to the Commission on Human Rights.

66. The living conditions and the human rights situation of indigenous people have shown improvement in some countries and regions as a result of specific circumstances, such as the restoration of land to an indigenous community (Richtersveldt, South Africa), the settlement of a land dispute between two communities (Chimalapas, Mexico), the acquittal of indigenous leaders unjustly accused of forming an illegal terrorist association (Chile), the launching of a project to compensate indigenous women who have been victims of urban violence (Canada), the halting of large-scale construction projects which would have permanently eroded an indigenous community's living conditions (the U'wa of Colombia) and the adoption of a law on resource management that respects the traditional rights of an indigenous group (Finnmark, Norway).

67. Many instances have been observed, however, in which indigenous people's human rights have not been respected. In many places, the living conditions of indigenous communities are deteriorating as a result of political decisions, environmental and economic developments, administrative measures, demographic pressure, urban expansion, budgetary constraints and the impact of globalization. Armed conflicts on indigenous lands and their consequences are a recurring reality in many regions, and call for continual monitoring. Given this multiplicity of issues, it is almost impossible to give a short-term assessment of achievements, failures, progress and setbacks in any particular place.

68. The situation of indigenous persons who defend their communities' human rights is especially worrisome. There has been an alarming increase in reported cases of harassment and persecution for such activities.

69. A matter of crucial importance, to which the Special Rapporteur plans to devote the thematic portion of his report to the Commission on Human Rights at its sixty-third session, is the growing gap between legislation on indigenous rights (such as constitutional reforms, indigenous laws and the ratification of international conventions and agreements) and the real, day-to-day situation of indigenous people in their communities.

70. All indications suggest that the main problem is not a lack of suitable legislation (although much remains to be done in that regard), but shortcomings in terms of implementation, the efficiency of institutions and the procedures and mechanisms for the full realization of human rights. If legal reforms in the area of indigenous people's human rights are not accompanied by institutional, social and political reforms that open up new opportunities for broad democratic participation by indigenous people in the management of institutions, mechanisms and

procedures whose effective operation is essential for the full enjoyment of their human rights, such legal measures will fall short of their objectives.

71. On the basis of the preceding observations, the Special Rapporteur wishes to make a number of recommendations, which he is pleased to present to the General Assembly for its consideration.

72. Armed conflicts in territories or areas where indigenous populations live require, in addition to monitoring by international humanitarian agencies, specific efforts to monitor their impact on the human rights of individuals and their destructive consequences for whole communities. The situation of indigenous women, in particular displaced and refugee women, is particularly severe, and should be addressed through targeted, culturally appropriate programmes. United Nations bodies responsible for follow-up and support in cases of forced displacement should carefully scrutinize such situations and identify suitable solutions. The Special Rapporteur recommends that these bodies make use of the specialized experience of OHCHR in developing protection programmes.

73. In cases in which violence perpetrated by illegal armed actors and others endangers the survival of small and especially vulnerable indigenous communities, the Special Rapporteur recommends that field visits be conducted by an independent international commission, with OHCHR support, to investigate the facts and to propose concrete and effective protection measures.

74. It is essential to enhance the quantity and quality of information about the real situation of indigenous peoples and communities, with a view to improving social policies that target them. The Special Rapporteur recommends that the relevant technical bodies adopt suitable measures.

75. With regard to Millennium Development Goals 1 and 2, States should, in all cases, adopt specific goals and policies for indigenous populations, with their full participation, and should ensure that the measures taken to achieve these objectives have no adverse impact on the human rights of such populations.

76. Indigenous people everywhere show a pattern of persistent poverty which calls for urgent, comprehensive and multidimensional measures aimed at the neediest indigenous communities and regions.

77. United Nations country teams that have not yet done so should formulate specific human rights goals for indigenous populations and should guide and coordinate their activities on that basis. Particular attention should be paid to the special situation and needs of indigenous women and girls, and precise criteria should be established for evaluating progress.

78. Efforts to combat child labour should be stepped up. In this context, all activities related to the abolition of child labour should pay close attention to indigenous girls and should take into account all the social and economic factors behind this phenomenon.

79. States should adopt emergency measures to guarantee the provision of basic services to indigenous communities that have little or no access to such services.

80. The Special Rapporteur recommends that Governments attach high priority to the objectives and principles of indigenous education and provide public and private

agencies and institutions involved in promoting indigenous education with sufficient material, institutional and intellectual resources.

81. The Special Rapporteur invites Governments to prepare, in close collaboration with indigenous communities, programmes for the training of an adequate number of bilingual and intercultural education teachers during the Second International Decade of the World's Indigenous People.

82. The Special Rapporteur also recommends that universities and research centres increase their involvement in the preparation of special multidisciplinary curricula for indigenous education. He further recommends that indigenous universities be expanded and strengthened.

83. The Special Rapporteur recommends that course content on indigenous peoples (including their history, philosophy, culture, art and ways of life) be broadened at all levels of national education and that it be presented from an anti-racist, multicultural perspective that reflects respect for cultural and ethnic diversity and, in particular, gender equality.

84. The mass media should regularly include content related to indigenous peoples and cultures in their programming, in a context of respect for the principles of tolerance, fairness and non-discrimination established in international human rights instruments, and indigenous peoples and communities should be entitled to make use of the mass media, including radio, television and the Internet, for their own purposes.

85. Special measures should be taken to protect indigenous communities against organized violence in the context of internal armed conflicts.

86. These proposals for protecting the human rights of indigenous peoples should have a prominent place among the activities to be carried out in the Second International Decade of the World's Indigenous People.